

**ARIZONA PUBLIC SERVICE COMPANY'S REPLY COMMENTS
TO ELECTRIC COMPETITION ADVISORY GROUP**

November 21, 2003

Pursuant to the October 17, 2003 Memorandum from the Director of the Utilities Division of the Arizona Corporation Commission ("Commission"), Arizona Public Service Company ("APS" or "Company") submits these Reply Comments to comments submitted by various parties to the Electric Competition Advisory Group ("ECAG") in April 2003.

I. INTRODUCTION

APS previously submitted comments to the ECAG on April 21, 2003. In those Comments, APS stated that the Commission's current Retail Electric Competition Rules, A.A.C. R14-2-1601 to -1618 ("Rules"), should not continue in their present form. Instead, if the Commission determines that retail electric competition should continue, the Rules must be modified to address a number of core issues, including reliability, cost responsibility, financial viability, comparability and compatibility. Addressing these core issues requires an evaluation of a number of key questions. For example, who is ultimately responsible for ensuring electric supply to end users and what means are permissible in meeting that obligation? What benefits can customers reasonably expect? What are the associated risks and costs and who bears them? How is the financial integrity of Affected Utilities preserved in this process?¹ How does the Commission ensure that all market participants are on a level playing field? And, how will events external to Arizona affect the implementation of the Rules and market participants?

¹ Contrary to the assertions of some, the Commission's responsibilities extend not just to Arizona consumers, but also to the public service corporations that the Commission regulates. See, e.g., *Simms v. Round Valley Light & Power Co.*, 80 Ariz. 145, 294 P.2d 378 (1956); *Application of Trico Electric Cooperative*, 92 Ariz. 373, 377 P.2d 309 (1962); see also *Texas v. Public Util. Comm'n*, 883 S.W.2d 190, 202 (1994) ("When balancing the interests of consumers and utilities, the financial integrity of the utility weighs in favor of both sides.").

Although other parties did not specifically raise these issues, the comments made by other parties to the ECAG support the continued need to consider these core issues and questions and to conduct a broader evaluation of the policy issues associated with retail electric competition at the outset of reviewing the Rules. The experiences in other states have vividly demonstrated the harm to customers and utilities that can result when the restructuring process to implement retail electric competition is flawed. Thus, retail electric competition should only be implemented if it is done in accordance with the fundamental principles described in APS' April 2003 Comments and if the Commission determines that it will result in real and measurable benefits for Arizona at an acceptable level of risk.

II. OTHER PARTIES' COMMENTS TO THE ECAG

A. Overview

The comments submitted by other parties in this docket reflect a variety of positions depending on the interests of the party submitting the comments.² Some parties with a particular service to market or business niche to fill advocate changes to the Rules to support their service, often without addressing the potential benefits or risks to customers associated with their proposal. Many parties, including the Residential Utility Consumers Office ("RUCO") and the cooperatives, advocate that retail electric competition in Arizona end or, as suggested by Tucson Electric Power Company ("TEP"), be limited in scope. The diversity of these comments supports APS' and Salt River Project's ("SRP") recommendation that before the Commission can meaningfully consider rule-by-rule changes, a more comprehensive inquiry into policy objectives is necessary.

² In these Reply Comments, APS has focused on the more significant comments made by other parties in their April 2003 filings. By not specifically addressing a comment or filing made by another party, APS is not necessarily indicating that it agrees with that party.

B. TEP

TEP correctly notes that the plan for electric competition that is in place today is substantially different than the one anticipated in 1996. Thus, a reevaluation by the Commission of the policy issues associated with retail electric competition should precede any detailed review of specific Rules. APS agrees with TEP's comments that the present unbundled billing in Rule 1612(O) is confusing to customers and could be simplified, and APS agrees that the disclosure requirements of Rule 1617 should apply to all load serving entities. Also, APS supports the concept of incorporating into any amended rules some of the specific Rule-related waivers, such as for metering and metering services, that have been issued previously by the Commission.

APS also agrees with TEP's comments on the need to address returning customer costs. The experiences of other states have demonstrated the problems encountered by incumbent utilities when Electric Service Providers ("ESP") renege on their obligations to customers. Returning customers are likely to impact an Affected Utility's system at a time when resource procurement is most challenging. Because the change is unexpected, the returning customer's load is both unplanned for and unhedged and thus could adversely impact the utility and increase costs for existing customers. The returning customer issue also is asymmetrical, because it only occurs from ESPs to Affected Utilities, who serve as providers of last resort in their service areas.

C. RUCO

APS shares RUCO's concerns regarding whether residential customers will benefit from retail electric competition. Such concerns again support a more complete inquiry into the policy issues associated with retail electric competition. APS also notes that the Company's core positions are in large part intended to protect retail customers from being harmed by electric restructuring, as has occurred in other states.

D. AECC

Like TEP, AECC recognizes the need to address issues associated with returning customers. The AECC points to the standard for returning customers that was included in APS' 1999 Settlement Agreement, which imposed no restrictions on customers under 3 MW but required one-year's notice for customers with loads of 3 MW or greater. If a customer with a 3 MW or greater load returned with less than one-year's notice, it was responsible for incremental costs associated with its return. For APS, such costs are to be recovered through an adjustment mechanism and APS would support incorporating its current process in a rule.

E. Constellation/Strategic Energy

Constellation's comments fail to address many of the market-design problems experienced in other states and the underlying goals for retail electric competition as adopted in Arizona. APS strongly opposes Constellation's recommendation that customers with demand over 500 kW should be summarily forced off of Standard Offer service, under the guise of "customer choice," to an unproven (and as yet largely nascent) ESP market. APS also disagrees that the process for obtaining a competitive CC&N is "ridiculously" long in Arizona and believes that competitors who are serious about serving Arizona customers would plan in advance for such an opportunity. Also, Constellation would eliminate the Commission's rules protecting against the unauthorized disclosure of customer information and would actually require Affected Utilities to provide marketing lists containing this information. The Commission's rules on confidentiality of customer information and requiring CC&Ns are designed both to protect customers and to comply with Constitutional obligations for regulating public service corporations, including ESPs. Similarly, APS believes that Constellation's suggestion that the Commission de-tariff service to large customers is neither legally-permissible nor in the best interests of customers.

Constellation's comments on Rule 1612(J) misread the purpose of the rule. Rule 1612(J) is not a benchmark against which ESPs are required to switch customers from their service to Standard Offer service. Rather, it is a notice requirement to ensure that customers are not abandoned by an ESP without prior notice to the Affected Utility. Thus, Constellation's comments supporting a new requirement on the timing for customer transfers from an Affected Utility are both misplaced and ignore the significant amount of work already done to establish a reasonable transfer process.

Constellation's comments that an interval meter should be required for all customer's above 20 kW ignores the significant additional cost that would be imposed on Standard Offer customers. While the increased use of interval meters is occurring on APS' system, Standard Offer service is still cost-based, and Constellation's suggestion is simply unreasonable and unrealistic. For example, the capital costs that APS customers would have to pay to install interval meters on the more than 40,000 APS customers above 20 kW would exceed \$20 million.³ Also, APS would have to completely overhaul its meter reading and customer information systems to manage the huge volumes of interval data and these costs would also run into the millions of dollars.

F. R.W. Beck

R.W. Beck's proposal is not clear. They appear to advocate a new standard that retail load be allowed to "self-supply" its energy needs. The Commission's rules and APS' tariffs, however, already provide for circumstances where customers have cogeneration or distributed generation facilities on site. Thus, changes to the Electric Competition Rules are not required to address the ownership of cogeneration facilities or distributed generation.

³ This \$20 million estimate assumes a very conservative figure of \$500 per meter. The actual per-meter installation costs would likely be significantly higher.

III. CONCLUSION

APS continues to support the ECAG's review of the Rules and again urges that this review consider not just specific changes to a few individual rules, but the broader policy issues associated with retail electric competition including those raised in the Company's April 2003 comments. In conducting this review, the Commission should specifically consider the experiences with retail electric competition in other states. If the Commission concludes, following such consideration, that restructuring and retail electric competition can yield real and measurable benefits to Arizona while maintaining the integrity of Affected Utilities, it should consider how the Rules should be modified to address the core issues of reliability, cost responsibility, financial viability, comparability and compatibility.